THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8387 of 2007

23-04-2007

Between:-

N.B. Venkat Reddy

Petitioner

And

State Bank of India,
Branch at Armoor town,
Armoor Post and Mandal,
Nizamabad district (A.P.) and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.8387 of 2007

Oral order:

The petitioner stood guarantee for a loan obtained by the second respondent from the first respondent. The second respondent committed default in repayment of the loan. The first respondent thereupon initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). After issuing notice under Section 13 (2) of the Act, there being no satisfaction of the debt by the second respondent, the first respondent issued a notice under Section 13 (4) of the Act read with Rule 8 (1) and (2) of the Security Interest (Enforcement) Rules, 2002 proposing to take possession of the property of the petitioner which is a secured asset.

The notice is dated 23-12-2006.

The petitioner assails the notice on the singular ground that the first respondent failed to initiate steps for taking possession of and to bring to sale the property of the principal borrower, the second respondent and without doing so has proceeded only against his property. This contention has no basis in law. It is a settled principle that proceedings can be initiated for recovery either against the principal borrower or the guarantor as the liability is joint and several. In any event, the petitioner has remedy by way of an appeal to the Debt Recovery Tribunal under Section 17 of the Act against any proceedings initiated under Section 13 (4) of the Act.

For the aforesaid reasons, there are no merits. The writ petition is accordingly dismissed at the stage of admission. No costs.

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GODA RAGHURAM, J

Dated:23-04-2007
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